

## **§ 1016.302**

### **§ 1016.302 Filing and service of documents.**

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 1016.202(b) for confidential financial information.

### **§ 1016.303 Answer to application.**

(a) Within 30 days after service of an application, counsel representing the agency against which an award is sought may file an answer to the application. Unless agency counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted as justified.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 1016.307.

[46 FR 61660, Dec. 18, 1981, as amended at 54 FR 26380, June 23, 1989]

### **§ 1016.304 Reply.**

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 1016.307.

### **§ 1016.305 Comments by other parties.**

Any party to a proceeding other than the applicant and agency counsel may

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file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not broaden the issues.

[46 FR 61660, Dec. 18, 1981, as amended at 54 FR 26380, June 23, 1989]

### **§ 1016.306 Settlement.**

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

### **§ 1016.307 Further proceedings.**

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel or on his or her own initiative, the adjudicative officer may order further proceedings when necessary.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

[46 FR 61660, Dec. 18, 1981, as amended at 54 FR 26380, June 23, 1989]

### **§ 1016.308 Decision.**

The adjudicative officer shall issue a decision on the application within 50 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the Board's or other agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an